

BRB Nos.04-431 BLA
and 04-431 BLA-A
Case No. 02-BLA-5390

MILLER RICE)	
)	DATE ISSUED: <u>June 28, 2004</u>
Claimant-Petitioner)	
Cross-Respondent)	
)	
v.)	
)	
SHAMROCK COAL COMPANY,)	
INCORPORATED)	
)	
and)	
)	
JAMES RICER COAL COMPANY)	
)	
Employer/Carrier-)	
Respondent)	
Cross-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS,)	
UNITED STATES DEPARTMENT)	
OF LABOR)	
)	
Party-in-Interest)	ORDER

By Order dated May 28, 2004, the Board directed counsel for employer to show cause why this appeal should not be dismissed for failure to comply with the requirements as to timely filing of the Petition for Review and brief in BRB No. 04-431 BLA-A. 20 C.F.R. ' ' 802.218(b), 802.402(a).

Thereafter, on June 14, 2004, the Board received employer's response to the Order to show cause. In its response, employer indicated that it requested in its previously filed response brief that employer's cross-appeal be withdrawn.

The Board accepts employer's response to the Order to show cause as part of record. Accordingly, the Board grants employer's request and dismisses its cross-appeal, BRB No. 04-431 BLA-A. 20 C.F.R. §802.401.

Claimant's appeal remains pending before the Board. The briefing schedule is now considered closed. The Board will issue its decision in turn and a copy of the decision will be sent to all the parties of record on the day it is issued.

By Order of the Board:

Thomas O. Shepherd, Jr.
Clerk of the Board